

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

JOSE V.,

Claimant,

vs.

INLAND REGIONAL CENTER,

Service Agency.

OAH No. 2011080842

**DECISION**

This matter came on regularly for hearing before Administrative Law Judge Roy W. Hewitt, Office of Administrative Hearings, in San Bernardino California on September 29, 2011.

The Inland Regional Center (agency) was represented by Leigh-Ann Pierce, Consumer Services Representative, Fair Hearings and Legal Affairs.

Claimant was represented by his mother who has conservatorship over claimant.

Oral and documentary evidence was received and the matter was submitted on September 29, 2011.

**ISSUE**

Is claimant eligible for agency services under the qualifying diagnosis of having a condition similar to mental retardation that requires treatment similar to that required by an individual with mental retardation (5<sup>th</sup> category)?

**FACTUAL FINDINGS**

1. Claimant turned 26 years old in November of 2010.

2. Claimant requested agency services and, on July 20, 2011, he underwent a psychological assessment. The psychological assessment was conducted by Edward B. Pflaumer, Ph.D. Dr. Pflaumer administered the Wechsler Adult Intelligence Scale-III (WAIS-III), the Test of Nonverbal Intelligence-3 (TONI-3); and, the Wide Range Achievement Test-3 (WRAT-3). Additionally, Dr. Pflaumer conducted interviews and reviewed claimant's file. At the conclusion of the assessment process Dr. Pflaumer issued a written report. In that report he noted the following relevant findings and conclusions:

. . . Jose's scores place him in the borderline range of intelligence on both the WAIS-III and TONI-3. His nonverbal, problem solving skills were slightly stronger than his verbal skills. This was expected since he struggled to express himself verbally. Jose's reading skills were quite strong and well above what would be expected from his intelligence scores. His reading and arithmetic skills were at the 5<sup>th</sup> and 3<sup>rd</sup> grade level respectively.

It is therefore recommended that Jose be considered ineligible for Regional Center services since he did not fall into the category of mental retardation or a similar condition to mental retardation that requires similar treatment . . .

Jose's presentation was consistent with the diagnosis of residual schizophrenia. This is a condition in which an individual who has been previously diagnosed with schizophrenia is stable and largely free from the major symptoms associated with the disorder. (Exh. 5)

3. Dr. Pflaumer's finding and conclusions are consistent with those of an October 29, 2001 psychological assessment conducted by Robert L. Suiter, Ph.D., Psy.D. For example, Dr. Suiter noted that on the Wechsler Intelligence Scale for Children-3, claimant "obtained a verbal I.Q. of 83, a performance I.Q. of 73, and a full scale I.Q. of 76."

4. Paul Greenwald, Ph.D., staff psychologist with the agency, testified at the hearing. Dr. Greenwald reviewed Dr. Suiter's report and Dr. Pflaumer's report. Based upon his records review, Dr. Greenwald concluded that claimant "does not meet the guidelines for fifth category. . . schizophrenia is not a developmental disorder and is not similar to mental retardation; the etiology is different and the onset is different." Schizophrenia "usually appears later on in life; after 18."

## LEGAL CONCLUSIONS

1. California Welfare and Institutions Code section 4512 defines a "Developmental Disability" as a disability which originates before an individual attains age 18, continues, or can be expected to continue, indefinitely. . ." California Code of Regulations, title 17, section 54000 further defines "Developmental Disability" as follows:

(a) 'Developmental Disability' means a disability that is attributable to mental retardation, cerebral palsy, epilepsy, autism, or disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation.

(b) The Developmental Disability shall

(1) Originate before age eighteen . . .

\* \* \*

(c) Developmental Disability shall not include handicapping conditions that are:

(1) Solely psychiatric disorders where there is impaired intellectual or social functioning which originated as a result of the psychiatric disorder or treatment given for such a disorder. Such psychiatric disorders include psycho-social deprivation and/or psychosis, severe neurosis or personality disorders even where social and intellectual functioning have become seriously impaired as an integral manifestation of the disorder . . .

2. The facts, considered as a whole, reveal that claimant does not have a qualifying "Developmental Disability;" therefore, he is not eligible for agency services

ORDER

The agency's conclusion that claimant is not eligible for agency services is upheld.

DATED: October 5, 2011.

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ROY W. HEWITT  
Administrative Law Judge  
Office of Administrative Hearings

**NOTICE:**

**This is a final administrative decision pursuant to Welfare and Institutions Code section 4712.5(b)(2). Both parties are bound hereby. Either party may appeal this decision to a court of competent jurisdiction within 90 days.**